IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

O R D E R

S.B. CIVIL WRIT PETITION NO. 1227/2002

OM PRAKASH Vs. STATE OF RAJASTHAN & ORS.

DATE: 06.09.2007.

HON'BLE MR. JUSTICE K.S. RATHORE

Mr. Vimal Choudhary for the petitioner.
Mr. B.S. Chhaba, Addl. GA for the State.

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This is the second round of litigation. Earlier also the petitioner had preferred a writ petition before this Court which was registered as S.B. Civil Writ Petition No. 1069/1997- Om Prakash Vs. State of Rajasthan & Others, and the same was decided vide order dated 19.08.99, whereby this Court has observed that the respondents are expected to decide the representation within a period of 3 months from the date of the receipt of the fresh representation.

The petitioner moved fresh representation and the same was considered by the Director, Mines and Geology and reduced the contract amount 35% for the period 12.02.95 to 21.03.96 and sent his proposal for refunding the amount of Rs. 3,19,245/- vide letter

dated 30.08.2001. A notification was issued by the Government wherein Sangarwa area is shown in the forest area and accordingly the District Forest Officer, Sikar vide his letter dated 06.03.95 informed the Mining Engineer, Sikar to this effect and the mining activities and operation in Sangwara forest area was stopped but the concerned forman of the Department has unauthorisedly inspected the quarries of Rewasa area on 27.05.95 and prepared a wrong report of wire fencing of 40 quarries out of total 86 quarries of the Area and thereafter relying on the said report, the concerned Mining Engineer sent his proposal to the Director for reduction of the contract amount and subsequently the Director bonafidely sent his proposal to the State Government for getting sanction for refund of 35% of the contract amount to the tune of Rs. 3,19,245/-.

The State Government enquired the matter afresh and it has come to the knowledge that the concerned foreman has inspected the Rewasa area without any authority and has wrongly prepared the report of wire fencing of 40 quarries out of 86 quarries of that area, whereas no order for stoppage of mining operation in that area was ever passed and in such circumstances, the State Government turned down the said refund

proposal and ordered to issue charge-sheet for the aforesaid illegalities and irregularities to the concerned foreman.

It is also not disputed that the new contract for the period from 01.04.96 to 31.03.98 of that Rewasa area was given for Rs. 25,05,000/-, whereas earlier it was given for Rs. 24,32,000/-. Had the mining operations been closed, then there was no occasion of increasing in the contract value. It clearly reveals that the mines in the Rewasa area were in operation and, therefore, question of refund of 35% royalty amount, as claimed by the petitioner, on account of so-called closure does not arise.

The petitioner further submits that this withdrawal of the refund of amount is without giving opportunity of being heard to the petitioner and the order of withdrawal cannot be made and it is clear violation of the principles of natural justice.

I have heard rival submissions of the respective parties and have also carefully gone through the orders impugned dated 26.04.2004 and 07.03.2005.

As stated herein above, after enquiry the State Government found that there was no closure and wrong report was submitted by the foreman and action is

already initiated against him, the petitioner is not entitled to get any refund as the mining activities has not been stopped by the respondents.

Further as regards liberty of being heard was not given to the petitioner, the petitioner is not necessarily to be heard for recalling the order of refund as the refund order was passed on the basis of the wrong report submitted by the foreman. In such circumstances, the refund as claimed by the petitioner and challenge to the impugned order, no case of any interference in the impugned orders dated 26.04.2004 and 07.03.2005 is made out and the petitioner has got no case of refund of the amount which has been passed vide order dated 30.09.2000 on the basis of the wrong report submitted by the foreman.

Consequently, the writ petition fails being devoid of merit and the same is hereby dismissed with no order as to costs.

(K.S. RATHORE),J.

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